Changes to the SBA Surety Bond Program Designed to Expand Business Opportunities for Small and Emerging Contractors

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Small and emerging contractors often find themselves in a dilemma when bidding on public and private projects – they know they can do the job but don't have a long track record of satisfactory project completions. Because of these factors, a project manager will often require a surety bond from the contractor. A surety bond is a three-party agreement that binds the contractor to comply with the terms and conditions of the contract, and if that is not done, the surety bond company is held responsible. Surety bonds are available through regular, commercial channels, but often the bond company isn't willing to take a chance on small and emerging contractors – for the same reasons the project manager wishes to require a surety bond.

Once more, this is an area where the U.S. Small Business Administration can help expand opportunities for small businesses. SBA offers surety bond companies a surety bond guarantee on projects up to $2 million on the face amount of the contract, agreeing to assume a predetermined percentage of loss in the event the contractor should breach the terms of the contract. The SBA can provide a guarantee on four areas of the contract that may require bonds: bids, payment to the contractor's laborers and material suppliers, performance in accordance with the contract terms and ancillary bonds for incidental elements essential to the performance of the contract.

SBA recently announced changes to the Surety Bond Guarantee Program since the passage of Public Law 108-447, which clarify the concept of an eligible contract to include "indefinite" quantity or "multiple awards" contracts specifying a range above $2 million. In short, the change of law now allows for small and emerging contractors to continue bidding and working on projects by work order, and allows the surety bond companies to request a guarantee of surety bonds to cover extra work. Additionally, the new law provides for an SBA pilot program to become permanent. It allows selected surety bond companies (SBA Preferred Surety Bond Program participants) to issue, monitor and service bonds without SBA's prior approval in exchange for a 70 percent SBA guarantee and drops SBA annual audits in lieu of audits every three years. Just as with SBA Preferred Lenders, the law now allows SBA to extend a certain amount of trust to surety bond companies who have for years made extensive use of the program with a demonstrated track-record of playing by the rules.

These surety bond program changes are designed to increase access to contracting opportunities by the small businesses that very much need them when they are first starting out and to enhance the surety bond company's ability to use them without excessive program regulation and requirements. As a bonus, reducing the number of audits on the surety bond companies reduces taxpayer bills to fund the audits, again showing that SBA's determination to streamline and make the agency affective at the same time has a positive outcome for all involved.